

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ALEX TAFOLLA	§	
VS.	§	CIVIL ACTION NO. 1:05cv502
UNITED STATES OF AMERICA	§	

MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION

Movant Alex Tafolla, a federal prisoner confined in Beaumont, Texas, proceeding *pro se*, brought this motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has filed a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the motion to vacate sentence.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties. However, the movant has filed a motion to dismiss the action. After due consideration, the court is of the opinion the motion should be granted and the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1).

ORDER

Accordingly, the movant's motion to voluntarily dismiss the case (document no. 4) is **GRANTED**. The report of the magistrate judge is partially **ADOPTED** to the extent it recommends

dismissing the action. A final judgment will be entered dismissing the action without prejudice in accordance with this Memorandum Order.

So **ORDERED** and **SIGNED** this **8** day of **December, 2005**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge